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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,395	03/01/2004	Dennis Davidson	193567	2574
7590	11/21/2005		EXAMINER	
Robert E. Cannuscio DRINKER BIDDLE & REATH LLP One Logan Square 18 th & Cherry Streets Philadelphia, PA 19103-6996			FETSUGA, ROBERT M	
			ART UNIT	PAPER NUMBER
			3751	
DATE MAILED: 11/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/791,395	DAVIDSON, DENNIS
	<b>Examiner</b>	<b>Art Unit</b>
	Robert M. Fetsuga	3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/01/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____ .                                  |

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1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter set forth in claims 4 and 10, and "handle" set forth in claim 18, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

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corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "shaped to substantially enclose" language set forth in claim 1 (and similarly claim 20), and "handle" set forth in claim 18, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

3. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is unclear as to whether the "plunger" is intended to be part of the claimed combination since structure of the "cover" is defined as being connected thereto, but no positive structural antecedent basis therefor has been defined.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 2, 4, 12-14 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Oberstein.

The Oberstein reference discloses a layer of flushable paper (col. 3 lns. 36-40); a soluble film 32; adhesive (col. 3 ln. 32); a sandwich (col. 3 lns. 36-40); a resealable seam 34; and a grip area (col. 1 lns. 35-41), as claimed. Re claim 1, the Oberstein bag is capable of being used "to substantially enclose a plunger" in the functionally recited manner.

6. Claims 1-3, 5, 10, 14-16, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Laumann '064.

The Laumann '064 ('064) reference discloses a layer of flushable paper (col. 4 lns. 3-6); a soluble film (col. 3 lns. 44-50); adhesive (col. 4 lns. 6-9); latex (col. 3 lns. 44-50); and a grip area/tab/handle (col. 7 lns. 7-17), as claimed. Re claim 1, the '064 material is capable of being used "to

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substantially enclose a plunger" in the functionally recited manner.

7. Claims 4, 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over '064.

Re claims 4 and 6, the choices of number of layers and dissolution rate would appear obvious choices to be made. Re claim 17, the choice of shape would appear an obvious choice to be made.

8. Claims 1-10, 12 and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over '064 and Wilkins, Jr.

Re claim 4, although the structural layer (paper) of the '064 water soluble material is not sandwiched, as claimed, attention is again directed to Wilkins which discloses a sandwiched structural layer (Fig. 4). Therefore, in consideration of Wilkins, it would have been obvious to one of ordinary skill in the water soluble material art to sandwich the '064 structural layer in order to facilitate handling and disposal.

Re claims 7-9, the choice of color would appear an obvious choice to be made. Note lines 29-37 in column 3 of Wilkins.

Re claim 12, the Wilkins, Jr. (Wilkins) reference explicitly teaches a water soluble material used to construct a

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bag which could be used to contain a plunger as functionally recited in the claim.

Re claim 19, although the '064 water soluble material is not infused, as claimed, attention is yet again directed to Wilkins which discloses an infused water soluble material (col. 3 lns. 29-40). Therefore, in further consideration of Wilkins, it would have been obvious to one of ordinary skill in the water soluble material art to infuse the '064 water soluble material in order to facilitate handling and disposal.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over '064 and Oberstein.

Although the '064 water soluble material does not include a resealable seam, as claimed, attention is directed to the Oberstein reference which discloses an analogous water soluble material which further includes a resealable seam 34. Therefore, in consideration of Oberstein, it would have been obvious to one of ordinary skill in the water soluble material art to associate a resealable seam the '064 water soluble material in order to facilitate use.

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over '064 and Wilkins as applied to claim 12 above, and further in view of Waters.

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Although the '064 bag does not include a concave bottom end, as claimed, attention is directed to the Waters reference which discloses an analogous bag which further includes a concave bottom end (Fig. 4). Therefore, in consideration of Waters, it would have been obvious to one of ordinary skill in the bag art to associate a concave bottom end with the '064 bag in order to provide stability.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Hollandsworth reference discloses normal operation of a plunger.

12. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

13. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.



Robert M. Fetsuga  
Primary Examiner  
Art Unit 3751